

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Southwestern Bell Communications Services, Inc.)	
)	File No.
Application for Authority Pursuant to Section 214)	
of the Communications Act of 1934, as Amended,)	
For Authority To Operate as an International)	
Facilities-Based and Resale Carrier in)	
California and Nevada)	

**APPLICATION OF SOUTHWESTERN BELL FOR AUTHORITY
UNDER SECTION 214 TO OPERATE AS AN
INTERNATIONAL CARRIER IN CALIFORNIA AND NEVEDA**

I. INTRODUCTION

Southwestern Bell Communications Services, Inc. ("SBCS"), hereby requests authority, pursuant to section 214 of the Communications Act of 1934, as amended ("Communications Act"), 47 U.S.C. § 214, and section 63.18 of the Commission's Rules, 47 C.F.R. § 63.18, to provide international facilities-based and resale services between all points in the states of California and Nevada and all international points except countries listed on the Commission's exclusion list¹ as SBCS receives Section 271 authority for each state. This application is a companion to the joint application of SBC Communications Inc., Pacific Bell Telephone Company and SBCS (collectively "SBC") for authorization to provide in-region, interLATA services in California, pursuant to Section 271 of the Communications Act, 47 U.S.C. § 271.²

¹ SBCS agrees not to use facilities listed on the Commission's exclusion list.

² *Joint Application by SBC Communications Inc., Pacific Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Provision of In-Region, InterLATA Services in California*, CC Docket No. DA 02-2334 (filed September 20, 2002) ("SBC California 271 Application").

SBC filed that application on September 20, 2002, and the Commission must decide it by December 19, 2002.³

In order to implement fully the authority requested in the SBC California 271 Application, and to ensure that SBC can offer its customers a full complement of interLATA services in California and Nevada, SBCS must obtain authority to provide international services at the same time that SBC receives section 271 authority for those states. Accordingly, SBCS respectfully requests the Commission grant this application to provide in-region international services in California concurrently with the SBC California 271 Application and approve SBCS' request to provide in-region international services in Nevada at such time as SBC receives section 271 authority to provide in-region interLATA service in Nevada. The International Bureau's Telecommunications Division has already granted similar applications for SBCS to provide in-region international services in Texas,⁴ Kansas, Oklahoma,⁵ Arkansas, and Missouri,⁶

³ See 47 U.S.C. § 271(d)(3) (requiring FCC decision not later than 90 days after receipt of section 271 application).

⁴ See *Southwestern Bell Communications Services, Inc.; Application for Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended for Authority to Operate as an International Facilities-Based and Resale Carrier*, 15 FCC Rcd 11718 (Int. Bur. 2000) ("SBCS Texas International 214 Order"); *Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, 15 FCC Rcd 18354 (2000) ("SWBT Texas 271 Order").

⁵ See *International Bureau's Telecommunications Division Grants SBC International Section 214 Authority for Kansas and Oklahoma*, File No. ITC-214-2000113-00713, Public Notice, DA 01-127 (Int. Bur. rel. Jan. 22, 2001) ("SBCS Kansas-Oklahoma International 214 Public Notice"); *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, 16 FCC Rcd 6237 (2001) ("SWBT Kansas-Oklahoma 271 Order").

⁶ See *International Bureau Telecommunications Division Grants SBC International Section 214 Authority for Arkansas and Missouri*, File No. ITC-214-20010919-00474, Public Notice, DA 01-2715 (Int. Bur. rel. Nov. 19, 2001) ("SBCS Arkansas-Missouri International 214 Public Notice"); *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region,*

and it granted those applications concurrently with the Commission's grant of Southwestern Bell Telephone Company's section 271 applications for those states.

By this request for global authority, SBCS seeks authority to provide facilities-based switched, facilities-based private line, resold switched, resold non-interconnected private line and resold interconnected private line services. SBCS will restrict its provision of interconnected private line services on either a facilities or resold basis to foreign destinations previously approved by the Commission for international simple resale ("ISR").⁷

SBC, the parent corporation of SBCS, has ownership interests in a number of foreign carriers, as the term "foreign carrier" is defined in the Commission's rules.⁸ Through some of these interests, SBCS is "affiliated" under the Commission's rules with 28 foreign carriers. As discussed below, 19 of these carriers are entitled to a presumption that they lack market power, and 5 others have already been determined by the Commission or the International Bureau to lack market power in their respective foreign markets. Consequently, SBCS requests that it be regulated as a non-dominant carrier on the following routes where it is affiliated with non-dominant foreign carriers: U.S.-Austria, U.S.-Brazil, U.S.-Canada, U.S.-Greece, U.S.-Hong Kong, U.S.-Czech Republic, U.S.-France, U.S.-Germany, U.S.-Great Britain, U.S.-Hungary, U.S.-Italy, U.S.-Japan, U.S.-Lithuania, U.S.-Luxembourg, U.S.-Netherlands, U.S.-Norway, U.S.-Portugal, U.S.-Singapore, U.S.-Spain, U.S.-Sweden, and U.S.-Switzerland.⁹

InterLATA Services in Arkansas and Missouri, CC Docket No. 01-194, Memorandum Opinion and Order, FCC 01-338 (rel. Nov. 16, 2001) ("*SWBT Arkansas-Missouri 271 Order*").

⁷ See 47 C.F.R. § 63.09(e).

⁸ See *id.* § 63.09(d). SBCS recently divested its interest in TransAsia Telecommunications, Inc., a non-dominant regional wireless carrier in Taiwan.

⁹ See 47 C.F.R. §§ 63.22(e)(1)-(e)(2), 63.23(d)(1)-(d)(2). As mentioned above, SBCS will not use facilities listed on the Commission's exclusion list.

The remaining four foreign affiliates of SBCS have not yet been declared non-dominant. These carriers are located in Belgium,¹⁰ Denmark, and South Africa, each of which is a member of the World Trade Organization. SBCS certifies that it will comply with the Commission's dominant carrier regulations along these three routes.

By this request, SBCS seeks authority to provide, subject to dominant carrier regulation, facilities-based switched, facilities-based private line, resold switched, resold non-interconnected private line, and (to the extent permitted under the Commission's rules) resold interconnected private line services. SBCS will not provide interconnected private line services on either a facilities basis or a resold basis to Belgium, Denmark, and South Africa, except to the extent permitted by Commission rules.¹¹

Accordingly, SBCS should be regulated as a non-dominant carrier on all international routes including those for which it has a foreign affiliation, except Belgium, Denmark, and South Africa.

II. GRANT OF THIS APPLICATION WILL SERVE THE PUBLIC'S INTEREST

Grant of this application will serve the public interest, convenience and necessity by enabling SBCS to offer "in-region" international services in competition with incumbent long distance carriers. As with domestic long-distance markets,¹² in-region entry by SBCS into the international services market will benefit consumers by increasing competition, lowering prices, and increasing the service options available to the public. Thus, as stated in the *SBCS Texas International 214 Order*, the *SBCS Kansas-Oklahoma International 214 Public Notice*, and the *SBCS Arkansas-Missouri International 214 Public Notice*, a grant of this application "will serve

¹⁰ The FCC treats Belgacom as a dominant carrier in Belgium. Also in Belgium, Belgacom controls Proximus, a wireless carrier that otherwise would be entitled to a presumption of non-dominance.

¹¹ See 47 C.F.R. §§ 63.22(e)(1)-(e)(2), 63.23(d)(1)-(d)(2).

¹² See generally *SWBT Texas 271 Order*, *SWBT Kansas-Oklahoma 271 Order*, *SWBT Arkansas-Missouri 271 Order*.

the public interest by increasing competition in international services, expanding the range of new and innovative services and allowing for more efficient use of existing international telecommunications facilities.”¹³

III. SECTION 63.18 INFORMATION

In support of this application, SBCS submits the following information in accordance with section 63.18 of the Commission’s Rules:

- (a) The name, address, and telephone number of the Applicant:

Southwestern Bell Communications Services, Inc.
5850 West Las Positas Blvd.
Pleasanton, CA 94588
(925) 468-5275

- (b) SBCS is organized under the laws of the states of Delaware and Virginia.

- (c) Correspondence concerning this application should be addressed to:

John di Bene
Vice-President and General Counsel
Southwestern Bell Communications Services
5850 West Las Positas Blvd.
Pleasanton, CA 94588

Please send copies of any correspondence to:

Terri L. Hoskins
SBC Telecommunications Inc.
1401 I Street, N.W.
Suite 400
Washington, D.C. 20005

- (d) SBCS has received authority to provide global resale services originating outside of the in-region states served by SBC’s local telephone operating companies.¹⁴ SBCS also has

¹³ *SBCS Arkansas-Missouri International 214 Public Notice* (third paragraph). *See also SBCS Kansas-Oklahoma International 214 Public Notice* (second paragraph) and *SBCS Texas International 214 Order* ¶ 23 (same).

¹⁴ *See Overseas Common Carrier Section 214 Applications Actions Taken*, 11 FCC Rcd 13980 (1996) (see FCC File No. ITC-96-497).

received limited global facilities-based and global resale authority to provide services in accordance with the provisions of section 63.18(e)(2) for communications originating out of region and terminating at all international points, except the countries listed on the Commission's exclusion list.¹⁵ In addition, four wholly owned subsidiaries of SBCS (SBCS Illinois, SBCS Maryland, SBCS Massachusetts and SBCS New York) have been granted limited global resale authority to provide international services between out-of-region points and all international points.¹⁶ And, as previously mentioned, SBCS has received limited authority to provide international service between all points in Texas,¹⁷ Kansas and Oklahoma,¹⁸ Arkansas and Missouri,¹⁹ and all international points pursuant to applications similar to this one.

(e) Pursuant to the terms and conditions of sections 63.18(e)(1) and 63.18(e)(2) of the Commission's rules,²⁰ SBCS requests limited global facilities-based and limited global resale section 214 authority to serve routes between all points in California and Nevada, and all

¹⁵ See *International Authorizations Granted*, 14 FCC Rcd 13344, 13345 (1999) (see FCC File No. ITC-97-770, renumbered ITC-214-19971108-00689) (granting SBCS authority to provide global facilities-based and resale services originating out-of-region and terminating at all international points, except Chile, South Africa, and Switzerland); *International Authorizations Granted*, 15 FCC Rcd 10175 (2000) (see FCC File No. ITC-214-20000301-00125) (granting SBCS authority to provide global facilities-based and resale services between out-of-region points and Chile, South Africa, and Switzerland, subject to SBCS's compliance with the Commission's international dominant carrier regulations on the U.S.-South Africa route); see also *Bell Operating Company Provision of Out-of-Region, Interstate, Interexchange Services*, 14 FCC Rcd 1105 (1998) (finding that, where a Bell Operating Company provides out-of-region, international, facilities-based service and generates international "return" traffic in exchange, the BOC may terminate such return traffic within its region, prior to obtaining in-region authority, subject to the Commission's rules and policies governing international telecommunications services).

¹⁶ See *Overseas Common Carrier Section 214 Applications Action Taken*, 11 FCC Rcd at 13980 (see FCC File Nos. ITC-96-496, ITC-96-497, ITC-96-498, ITC-96-499 ITC-96-500); see also *SBCS Texas International 214 Order* ¶ 3 & n.7.

¹⁷ See *SBCS Texas International 214 Order* ¶ 23.

¹⁸ See *SBCS Kansas-Oklahoma International 214 Public Notice*.

¹⁹ See *SBCS Arkansas-Missouri International 214 Public Notice*.

²⁰ 47 C.F.R. § 63.18(e)(1) & 63.18(e)(2).

international points except Belgium, Denmark, South Africa and countries listed on the Commission's exclusion list. SBCS certifies that it will comply with the terms and conditions contained in sections 63.21, 63.22 and 63.23 of the Commission's rules with respect to its provision of service to Belgium, Denmark and South Africa.²¹

Pursuant to the terms and conditions of section 63.18(e)(4) of the Commission's rules,²² SBCS also requests specific authority to provide facilities-based and resale services between all points in California and Nevada, and Belgium, Denmark and South Africa. SBCS certifies that it will comply with the terms and conditions contained in sections 63.21, 63.22 and 63.23 of the Commission's rules.

(f) Not applicable.

(g) SBCS hereby states that an authorization of facilities is categorically excluded under the terms of 47 C.F.R. § 1.1306; an environmental assessment as described in 47 C.F.R. § 1.1311 need not be filed with this application.

(h) The name, address, citizenship and principal businesses of the shareholders, partners, and/or owners of ten percent or greater of SBCS are listed below:

SBC Communications Inc.
175 East Houston
San Antonio, Texas 78205
Citizenship: United States
Principal Business: Telecommunications
Ownership Interest: 100 percent; no entity beneficially owns
10 percent or more of SBC.

(i) SBCS certifies that it is affiliated, as that term is defined in section 63.09 of the Commission's rules, with the following foreign carriers. With the exception of Lithuania, each country in which each carrier is located is a member of the WTO:

(1) Telkom South Africa Ltd. ("Telkom S.A.") (South Africa). A consortium formed between Telekom Malaysia Berhad and SBC International South Africa L.C.C.

²¹ 47 C.F.R. §§ 63.21, 63.22, 63.23.

²² 47 C.F.R. § 63.18(e)(4).

(“SBCISA”) owns 30 percent of Telkom S.A; SBCISA owns 60 percent of that consortium. Prior to the acquisition by this consortium, Telkom was completely state-owned. Telkom S.A. is the incumbent telecommunications carrier in South Africa.

- (2) TDC A/S (formerly Tele Danmark A/S) (Denmark). Through an indirect subsidiary, Ameritech (and therefore SBC) indirectly holds a 41.6 percent, *de facto* controlling interest in TDC A/S. TDC A/S is a local exchange telephone carrier in Denmark authorized to provide, among other services, international telecommunications services to the public.
- (3) TDC Switzerland (Switzerland). Formed through the merger of Sunrise Communications A.G. and diAx, TDC Switzerland provides fixed and wireless voice, data, and Internet services in Switzerland. SBCS has an indirect 41.6 percent interest in TDC Switzerland. Because TDC Switzerland has less than a 50 percent share in the international transport and local access market in Switzerland, SBCS is entitled to a presumption of non-dominant status on the U.S.-Switzerland route.²³
- (4) Belgacom S.A. (“Belgacom” or “Belgacom S.A.”) (Belgium). SBC, through Ameritech, holds two separate ownership interests in ADSB Telecommunications (“ADSB”), which in turn owns slightly less than 50 percent of Belgacom. Belgacom is the incumbent telecommunications operator in Belgium. Through Ameritech, SBC holds: (1) a 35 percent non-controlling interest in ADSB; and (2) a 41.6 percent *de facto* controlling interest in TDC A/S, which in turn holds a 33 percent non-controlling interest in ADSB. In the *SBCS Texas International 214 Order*, the International Bureau held that because SBC’s minority interest in TDC A/S is a *de facto* controlling interest, the entire 33 percent interest of TDC A/S in Belgacom should be attributed to SBC. SBC’s resulting 34 percent total interest in Belgacom thus constitutes a foreign affiliation under the Commission’s rules.²⁴
- (5) Belgacom (Austria). Belgacom S.A. has entered the telecommunications market in Austria as a provider of international wholesale transmission services to other carriers and as a provider of data services. Belgacom is in the process of creating a wholly owned subsidiary to operate its point of presence (“POP”) in Austria. Therefore, through SBC’s indirect 34 percent interest in Belgacom, SBC also will hold an indirect 34 percent interest in the Belgacom subsidiary in Austria. Because it is a new market entrant, Belgacom has far less than a 50 percent share of the international transport and local access markets in Austria, and thus SBCS is entitled to a presumption of non-dominant status on the U.S.-Austria route.²⁵

²³ See *Southwestern Bell Communications Services, et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20010917-00046 (filed Sept. 17, 2001) at 2, 6.

²⁴ *SBCS Texas International 214 Order* ¶ 21.

²⁵ See *Southwestern Bell Communications Services, et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20010706-00034 (filed Jul. 6, 2001) at 8.

- (6) Belgacom France (France). Belgacom France provides competitive fixed voice, data, and Internet services in France and is a wholly owned subsidiary of Belgacom. Through SBC's indirect 34 percent interest in Belgacom, SBC also holds an indirect 34 percent interest in Belgacom France.²⁶ The Commission has not yet decided whether Belgacom France has market power in France. Because Belgacom France holds less than a 50 percent share in the international transport and local access markets in France, however, SBCS is presumptively entitled to non-dominant status on the U.S.-France route.²⁷
- (7) Belgacom Deutschland GmbH ("Belgacom Deutschland") (Germany). Belgacom Deutschland, a competitive carrier in Germany, is a wholly owned subsidiary of Belgacom. Therefore, through SBC's indirect 34 percent interest in Belgacom, SBC also holds an indirect 34 percent interest in Belgacom Deutschland. The Commission has not yet decided whether Belgacom Deutschland has market power in Germany. Because Belgacom Deutschland holds less than a 50 percent share in the international transport and local access markets in Germany, however, SBCS is presumptively entitled to non-dominant status in the U.S.-Germany route.²⁸
- (8) Belgacom (Greece). Belgacom S.A. has entered the telecommunications market in Greece to provide wholesale routing of international voice traffic from other licensed operators in Greece, and to provide international wholesale bandwidth, IP transit, international leased lines, and data transmission services such as ATM, Frame Relay, and IP VPN, to certain select business customers. Through SBC's indirect 34 percent interest in Belgacom, SBC also holds an indirect 34 percent interest in Belgacom's Greek operations. The Commission has not yet decided whether Belgacom has market power in Greece. Because Belgacom holds less than a 50 percent share in the international transport and local access markets in Greece, however, SBCS is presumptively entitled to non-dominant status on the U.S.-Greece route.²⁹
- (9) Tritone (Germany, Luxembourg, Netherlands). Tritone is a competitive data carrier in the cross-border region of Germany, Luxembourg, and the Netherlands.

²⁶ See *Southwestern Bell Communications Services, Inc. et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20000913-00056 (filed Sept. 13, 2000) ("*September 13, 2000 Notification*") at 4.

²⁷ *Id.* at 10; see 47 C.F.R. § 63.10(a)(3); *Foreign Participation Order* ¶¶ 150-70.

²⁸ See *Southwestern Bell Communications Services, Inc. et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20001019-00059 (filed Oct. 19, 2000) ("*October 19, 2000 Notification*") at 5; see 47 C.F.R. § 63.10(a)(3); *Foreign Participation Order* ¶¶ 150-70.

²⁹ See *Southwestern Bell Communications Services, Inc. et al.*, Notification of Foreign Affiliation, FCN-NEW-20020307-00017 (filed Mar. 7, 2002) at 6; see 47 C.F.R. § 63.10(a)(3); *Foreign Participation Order* ¶¶ 150-70.

Belgacom owns 55.4% of Tritone and controls it. Therefore, SBC holds an indirect 34% interest in Tritone. Because Tritone holds far less than a 50 percent share in the international transport and local access markets in either Germany, Luxembourg or the Netherlands, SBSCS is presumptively entitled to non-dominant status on the U.S.-Germany, U.S.-Luxembourg, and U.S.-Netherlands routes.³⁰

- (10) Belgacom U.K. Limited (“Belgacom U.K.”) (Great Britain). Belgacom U.K., a competitive carrier in Great Britain, is a wholly owned subsidiary of Belgacom. Therefore, through SBC’s indirect 34 percent interest in Belgacom, SBC also holds an indirect 34 percent interest in Belgacom U.K. The Commission has not yet considered whether Belgacom U.K. has market power in Great Britain. Because Belgacom U.K. holds less than a 50 percent share in the international transport and local access markets in Great Britain, however, SBSCS is presumptively entitled to non-dominant status on the U.S.-Great Britain route.³¹
- (11) Belgacom China Ltd. (“Belgacom China”) (Hong Kong). Belgacom China has entered the telecommunications market in China as a provider of international wholesale transmission services to other carriers and as a provider of data services. Belgacom China is a wholly owned subsidiary of Belgacom. Therefore, through SBC’s indirect 34 percent interest in Belgacom, SBC also hold an indirect 34 percent interest in Belgacom China. Because Belgacom China is a new market entrant, it holds far less than a 50 percent share in the international transport and local access markets in Hong Kong. Thus, SBSCS is presumptively entitled to non-dominant status on the U.S.-Hong Kong route.³²
- (12) Belgacom Japan, KK. (“Belgacom Japan”) (Japan). Belgacom Japan has entered the telecommunications market in Japan as a provider of data services and international wholesale transmission services to other carriers. Belgacom Japan is a wholly owned subsidiary of Belgacom. Therefore, through SBC’s indirect 34 percent interest in Belgacom, SBC also holds an indirect 34 percent interest in Belgacom Japan. Because it is a new market entrant, Belgacom Japan has far less than a 50 percent market share in the international transport and local access markets in Japan. Therefore, SBSCS is entitled to presumption of non-dominant status on the U.S.-Japan route.³³

³⁰ See *Southwestern Bell Communications Services, Inc. et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20011018-00050 (filed Oct. 18, 2001) (“*October 18, 2001 Notification*”) at 8-9.

³¹ See *October 19, 2000 Notification* at 5; see 47 C.F.R. § 63.10(a)(3); *Foreign Participation Order* ¶¶ 150-70.

³² See *Southwestern Bell Communications Services, Inc. et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20010927-00048 (filed Sept. 27, 2001) at 2, 6-7.

³³ See *Southwestern Bell Communications Services, Inc. et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20011121-00059 (filed Nov. 21, 2001) at 3, 6-7.

- (13) Belgacom Italia S.r.l. (“Belgacom Italia”)(Italy). Belgacom Italia has entered the telecommunications market in Italy as a provider of international wholesale transmission services to other carriers and as a provider of data services. Belgacom Italia is a wholly owned subsidiary of Belgacom S.A. Therefore, through SBC’s indirect 34 percent interest in Belgacom, SBC also holds an indirect 34 percent interest in Belgacom Italia. Because it is a new market entrant, Belgacom Italia has far less than a 50 percent market share in the international transport and local access markets in Italy. Therefore, SBCS is entitled to a presumption of non-dominant status on the U.S.-Italy route.³⁴
- (14) Belgacom Nederland B.V. (“Belgacom Nederland”) (Netherlands). Belgacom Nederland, a competitive carrier in the Netherlands, is a wholly owned subsidiary of Belgacom. Therefore, through SBC’s indirect 34 percent interest in Belgacom, SBC also holds an indirect 34 percent interest in Belgacom Nederland. The Commission has not yet decided whether Belgacom Nederland has market power in the Netherlands. Because Belgacom Nederland holds less than a 50 percent share in the international transport and local access markets in the Netherlands, however, SBCS is presumptively entitled to non-dominant status in the U.S.-Netherlands route.³⁵
- (15) Belgacom Portugal S.A. (“Belgacom Portugal”) (Portugal). Belgacom Portugal, a competitive carrier in Portugal, is a wholly owned subsidiary of Belgacom. Therefore, through SBC’s indirect 34 percent interest in Belgacom, SBC also holds an indirect 34 percent interest in Belgacom Portugal. Because Belgacom Portugal is a new market entrant, it holds far less than a 50 percent share in the international transport and local access markets in Portugal. Thus, SBCS is presumptively entitled to non-dominant status on the U.S.-Portugal route.³⁶
- (16) Belgacom Asia Pte Ltd. (“Belgacom Asia”) (Singapore). Belgacom Asia, a competitive carrier in Singapore, is a wholly owned subsidiary of Belgacom. Therefore, through SBC’s indirect 34 percent interest in Belgacom, SBC also holds an indirect 34 percent interest in Belgacom Asia. Because Belgacom Asia is a new market entrant, it holds far less than a 50 percent share in the international transport and local access markets in Singapore. Thus, SBCS is presumptively entitled to non-dominant status on the U.S.-Singapore route.³⁷

³⁴ See *Southwestern Bell Communications Services, et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20010228-00007 (filed Feb. 28, 2001) at 6.

³⁵ *October 19, 2000 Notification* at 5; see 47 C.F.R. § 63.10(a)(3); *Foreign Participation Order* ¶¶ 150-70.

³⁶ See *Southwestern Bell Communications Services, et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20010403-00016 (filed April 3, 2001) (“*April 3, 2001 Notification*”) at 9.

³⁷ See *April 3, 2001 Notification* at 9.

- (17) Belgacom (Spain). Belgacom S.A. has entered the telecommunications market in Spain as a provider of international wholesale transmission services to other carriers and as a provider of data services. Belgacom is in the process of creating a wholly owned subsidiary to operate its point of presence (“POP”) in Spain. Therefore, through SBC’s indirect 34 percent interest in Belgacom, SBC also will hold an indirect 34 percent interest in the Belgacom subsidiary in Spain. Because it is a new market entrant, Belgacom has far less than a 50 percent share of the international transport and local access markets in Spain, and thus SBCS is entitled to a presumption of non-dominant status on the U.S.-Spain route.³⁸
- (18) Belgacom (Sweden). Belgacom S.A. has entered the telecommunications market in Sweden as a provider of international wholesale transmission services to other carriers and as a provider of data services. Belgacom is in the process of creating a wholly owned subsidiary to operate its point of presence (“POP”) in Sweden. Therefore, through SBC’s indirect 34 percent interest in Belgacom, SBC also will hold an indirect 34 percent interest in the Belgacom subsidiary in Sweden. Because it is a new market entrant, Belgacom has far less than a 50 percent share of the international transport and local access markets in Sweden, and thus SBCS is entitled to a presumption of non-dominant status on the U.S.-Sweden route.³⁹
- (19) Belgacom (Switzerland). Belgacom S.A. has entered the telecommunications market in Switzerland as a provider of international wholesale transmission services to other carriers and as a provider of data services. Belgacom is in the process of creating a wholly owned subsidiary to operate its point of presence (“POP”) in Switzerland. Therefore, through SBC’s indirect 34 percent interest in Belgacom, SBC also will hold an indirect 34 percent interest in the Belgacom subsidiary in Switzerland. Because it is a new market entrant, Belgacom has far less than a 50 percent share of the international transport and local access markets in Switzerland, and thus SBCS is presumptively entitled to a classification of non-dominance on the U.S.-Switzerland route.⁴⁰
- (20) Talkline GmbH (“Talkline”) (Germany). TDC A/S wholly owns Talkline. Consequently, SBC, through Ameritech, holds an indirect controlling interest in Talkline. Talkline is authorized to provide fixed and mobile communications services in Germany. Talkline has less than a 50 percent market share of the international transport and local access markets in Germany. The Commission has already concluded that Talkline lacks market power in Germany and the

³⁸ See *Southwestern Bell Communications Services, et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20010221-00003 (filed Feb. 16, 2001) at 7.

³⁹ See *Southwestern Bell Communications Services, et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20010706-00034 (filed Jul. 6, 2001) at 8.

⁴⁰ See *April 3, 2001 Notification* at 9.

Netherlands, and that SBC subsidiaries, including SBCS, are entitled to regulation as non-dominant carriers along the U.S.-Germany.⁴¹

- (21) BEN Netherland B.V. (“BEN Netherland”) (the Netherlands). Through its interests in TDC A/S and Belgacom S.A., Ameritech owns an indirect, non-controlling interest in BEN Netherland. BEN Netherland provides GSM 1800 wireless services in the Netherlands, and has less than a 50 percent market share in the international transport and local access markets in the Netherlands. The Commission has determined that BEN Netherland does not possess market power in the Netherlands, and that SBC subsidiaries, including SBCS, are entitled to non-dominant regulation on the U.S.-Netherlands route.⁴²
- (22) Contactel, s.r.o. (“Contactel”) (Czech Republic). Through a 50/50 joint venture between TDC A/S and Ceske Radiokomunikace, SBCS holds an indirect controlling interest of about 65% in Contactel, a provider of competitive data and Internet services in the Czech Republic. The Commission has not yet decided whether Contactel has market power in the Czech Republic. Because Contactel holds far less than a 50 percent share in the international transport and local access markets in the Czech Republic, however, SBCS is presumptively entitled to non-dominant status in the U.S.-Czech Republic route.⁴³
- (23) UAB Mobilios Telekomunikacijos (“Bité”) (Lithuania). Bité is a wholly owned subsidiary of TDC. Consequently, Ameritech (and therefore SBC) holds an indirect, controlling interest in Bité. Bité is authorized to provide wireless services in Lithuania, and has less than a 50 percent market share in the international transport and local access markets in Lithuania. The Commission has already concluded that Bité lacks market power in Lithuania, and that SBC subsidiaries, including SBCS, are entitled to regulation as non-dominant carriers on the U.S.-Lithuania route.⁴⁴
- (24) Ameritech Communications International, Inc. (“ACII”) (Canada). ACII is an indirect, wholly owned subsidiary of Ameritech. As a consequence, SBC holds a controlling interest in ACII. ACII recently received authorization to provide international telecommunications services in Canada, and therefore became a foreign carrier, as that term is defined in section 63.09. The International Bureau held in the *SBCS Texas International 214 Order* that ACII lacks market power in Canada, and therefore that SBCS is entitled to non-dominant carrier regulation on the U.S.-Canada route.⁴⁵

⁴¹ *SBC/Ameritech Merger Order* ¶ 537; see also *SBCS Texas International 214 Order* ¶ 13.

⁴² *SBC/Ameritech Merger Order* ¶ 537; see also *SBCS Texas International 214 Order* ¶ 14.

⁴³ *September 13, 2000 Notification* at 10; see 47 C.F.R. § 63.10(a)(3); *Foreign Participation Order* ¶¶ 150-70.

⁴⁴ *SBC/Ameritech Merger Order* ¶ 538; see also *SBCS Texas International 214 Order* ¶ 13.

⁴⁵ *Id.* ¶ 15.

- (25) Internordia f/k/a ElTele Ost (Norway). TDC A/S has 100 percent ownership of Internordia, which provides competitive fixed network, broadband and Internet services in Norway. Internordia currently has less than 50 percent market share in the international transport and local access markets in Norway. In view of this small share, the International Bureau held in the *SBCS Texas International 214 Order* that Internordia lacks market power in Norway, and therefore that SBCS is entitled to non-dominant carrier regulation on the U.S.-Norway route.⁴⁶
- (26) Hungarian Telephone and Cable Corporation ("HTCC") (Hungary). TDC A/S has a 31.9 % interest in HTCC. Consequently, through TDC A/S, SBC indirectly owns 31.9% interest in HTCC. HTCC provides fixed-line local service in five non-metropolitan areas of Hungary. HTCC has no market power in Hungary in the market for services used to originate or terminate international calls in Hungary. The Commission has not yet decided whether HTCC has market power in Hungary. However, HTCC has far less than 50 percent of the market share in the international transport and local access markets in Hungary. Accordingly, SBCS is entitled to non-dominant carrier regulation on the route between the United States and Hungary.⁴⁷
- (27) ATL-Algar Telecom Leste, S.A. ("ATL") (Brazil). Pursuant to Brazilian regulations, ATL is controlled by Brazilian interests. ATL is controlled by the Brazilian firm Algar Telecom Participações S.A., ("ATP") which holds about 50.22 percent of ATL's voting stock. ATP in turn is controlled by Algar, S.A., a Brazilian firm, which has a 61 percent voting, and controlling, interest in ATP. Thus, under the Commission's multiplier rule, Algar, S.A. controls ATL with about 50.22 percent of its voting stock.⁴⁸ SBC has an indirect, non-controlling 39 percent voting interest in ATP, but does not control or vote ATP's interest in ATL. Under the Commission's multiplier rule, SBC has an indirect and non-controlling voting interest of 49.88 percent in ATL. This is derived from the fact that SBC has an indirect controlling voting interest of about 66.6 percent in SBCI Brasil Ltda. ("SBL"). SBL indirectly owns a non-controlling voting interest of 49.88 percent in ATL.

⁴⁶ *Id.* The International Bureau also held in the *SBCS Texas International 214 Order* that SBC's interest (through Ameritech) in NetCom ASA, a competitive wireless carrier authorized to provide GSM mobile telecommunications services in Norway, did not warrant dominant carrier regulation on the U.S.-Norway route. *Id.* ¶ 14. SBC has since divested its interest in NetCom and is thus no longer affiliated with that carrier, as the International Bureau has recognized. *See September 13, 2000 Notification* at 2-3; *Applications of SBC and BellSouth* ¶ 36 n.93.

⁴⁷ *Southwestern Bell Communications Services, Inc. et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-2002083000034 (filed August 30, 2002).

⁴⁸ *See* 47 C.F.R. § 63.18 n.4; *SBCS Texas International 214 Order* ¶ 21.

ATL is licensed regionally and provides mobile wireless service in the Brazilian states of Rio de Janeiro and Espírito Santo. ATL has about 1.7 million mobile service subscribers, giving it a mobile wireless market share of about 39 percent in its service area, where it competes with the wireless provider Telefônica Celular S.A. (Telerj Celular S.A. e Teleste Celular S.A.). Moreover, the incumbent wireline carrier, Tele Norte Leste Participações S.A. – Telemar, serves an estimated 13.9 million subscribers in Brazil, and about 4.5 million subscribers in ATL's wireless service area, far more than ATL's subscriber base. ATL is not licensed to provide international services. Since ATL has far less than a 50% market share in the international transport and local access markets in either its licensed wireless region of Brazil or in Brazil as a whole, SBCS is entitled to a presumption that it is non-dominant on the U.S.-Brazil route.⁴⁹

- (28) Proximus (Belgium). Belgacom holds a 75% controlling interest in Proximus, a GSM wireless carrier in Belgium. Therefore, through SBC's indirect interest in Belgacom, SBC holds a 34% indirect interest in Proximus. As of March 31, 2001, Proximus had less than 4 million customers. Proximus has less than a 50% market share in the local access and transport markets in Belgium.⁵⁰

(j) Pursuant to section 63.18(j) of the Commission's rules, SBCS certifies that: (1) it does not seek to provide international telecommunications services to any destination country in which SBCS is a foreign carrier or controls a foreign carrier, and (2) no foreign carriers own more than 25 percent of SBCS.

SBCS further certifies that it seeks to serve certain destination countries in which SBC, its parent corporation, controls foreign carriers. These foreign carriers and destination countries are:

⁴⁹ See *Southwestern Bell Communications Services, Inc. et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20010504-00025 (filed May 4, 2001) at 2-6, 9-10. The Commission concluded in 1999 that mobile wireless carriers are unlikely to raise market power concerns involving foreign destination markets. See *1998 Biennial Regulatory Review—Review of International Common Carrier Regulations*, 14 FCC Rcd 4909, 4922 (1999).

⁵⁰ See *October 18, 2001 Notification* at 3, 8-9. As stated above, SBCS certifies that it will comply with the Commission's dominant carrier regulations on the U.S.-Belgium route because of its affiliation in Belgium with Belgacom, which controls Proximus. Otherwise, SBCS is entitled to a presumption of non-dominance with respect to Proximus because Proximus has less than a 50% market share in the local access and transport markets in Belgium. The Commission has found that mobile wireless carriers are unlikely to raise market power concerns involving foreign destination markets. See *1998 Biennial Regulatory Review—Review of International Common Carrier Regulations*, 14 FCC Rcd 4909, 4922 (1999).

- (1) TDC A/S (Denmark).
- (2) Talkline (Germany and the Netherlands).
- (3) Contactel (Czech Republic).
- (4) Bité (Lithuania).
- (5) Ameritech Communications International, Inc. (Canada).
- (6) Internordia f/k/a EITele Ost (Norway)
- (7) TDC Switzerland (Switzerland)

(k) Pursuant to section 63.18(k) of the Commission's rules, for each of the destination countries listed in subsection (j) of this application, SBCS provides the following information:

- (1) TDC (Denmark). Denmark is a member of the WTO.
- (2) Talkline (Germany and the Netherlands). Both Germany and the Netherlands are members of the WTO. Talkline has less than 50 percent market share of the international transport and local access markets in Germany and the Netherlands, and therefore is presumed not to have market power in Germany and the Netherlands.⁵¹ Additionally, as noted above, the Commission has already concluded that Talkline lacks market power in Germany and the Netherlands.⁵²
- (3) Contactel (Czech Republic). The Czech Republic is a member of the WTO. As noted above, Contactel has less than 50 percent market share of the international transport and local access markets in the Czech Republic, and therefore is presumed not to have market power in the Czech Republic.⁵³
- (4) Bité (Lithuania). Lithuania is not a member of the WTO. However, Bité has less than a 50 percent market share in the international transport and local access markets in Lithuania, and therefore is presumed not to possess market power in any relevant market on the U.S.-Lithuania route.⁵⁴ For this reason, the Commission has already concluded that Bité lacks sufficient market power to affect competition adversely in the United States.⁵⁵

⁵¹ 47 C.F.R. § 63.10(a)(3); *Foreign Participation Order* ¶¶ 150-70.

⁵² *SBC/Ameritech Merger Order* ¶ 537; see also *SBCS Texas International 214 Order* ¶ 13.

⁵³ 47 C.F.R. § 63.10(a)(3); *Foreign Participation Order* ¶¶ 150-70.

⁵⁴ 47 C.F.R. § 63.10(a)(3); *Foreign Participation Order* ¶¶ 150-70.

⁵⁵ *SBC/Ameritech Merger Order* ¶ 538; see also *SBCS Texas International 214 Order* ¶ 13.

- (5) Ameritech Communications International, Inc. (Canada). Canada is a member of the WTO. ACII is a nascent carrier with less than 50 percent of the international transport and local access markets in Canada, and therefore is presumed not to possess market power in any relevant market on the U.S.-Canada route.⁵⁶ As noted above, the International Bureau has already concluded that ACII lacks market power in Canada.⁵⁷
- (6) Internordia (Norway). Norway is a member of the WTO. Internordia is a nascent carrier with a minuscule share of the international transport and local access markets in Norway, and therefore is presumed not to possess market power in any relevant market on the U.S.-Norway route.⁵⁸
- (7) TDC Switzerland. Switzerland is a member of the WTO. TDC Switzerland has far less than 50% of the international transport and local access markets in Switzerland, and therefore is presumed not to have market power in Switzerland.⁵⁹

(l) & (m) SBCS's affiliated foreign carriers in Austria (Belgacom), Belgium (Proximus)⁶⁰, Canada (ACII), the Czech Republic (Contactel), France (Belgacom France), Germany (Belgacom Deutschland, Tritone, and Talkline), Great Britain (Belgacom U.K.), Greece (Belgacom), Hong Kong (Belgacom China), Hungary (HTTC), Italy (Belgacom Italia), Japan (Belgacom Japan), Lithuania (Bité), Luxembourg (Tritone), the Netherlands (Belgacom Nederland, Tritone, and BEN Nederland), Norway (Internordia), Portugal (Belgacom Portugal), Singapore (Telecom Asia), Spain (Belgacom), Sweden (Belgacom), Switzerland (TDC Switzerland and Belgacom), and Brazil (ATL) each has less than 50 percent market share in the international transport and local access markets in the relevant foreign destination markets and therefore, are entitled to a presumption of non-dominance. In addition, as discussed above, the

⁵⁶ 47 C.F.R. § 63.10(a)(3); *Foreign Participation Order* ¶¶ 150-70.

⁵⁷ *SBCS Texas International 214 Order* ¶ 15.

⁵⁸ 47 C.F.R. § 63.10(a)(3); *Foreign Participation Order* ¶¶ 150-70.

⁵⁹ 47 C.F.R. § 63.10(a)(3); *Foreign Participation Order* ¶¶ 150-70.

⁶⁰ As discussed in the following paragraph, SBCS' affiliate carriers in Belgium have not yet been declared non-dominant and SBCS certifies that it will comply with dominant carrier regulation on the U.S. to Belgium route.

Commission (or the International Bureau) has already determined that five of the foregoing foreign carriers (Talkline, BEN Netherland, Bité, ACIL, and Internordia) lack market power in their respective foreign markets. Accordingly, pursuant to section 63.10(a)(3) of the Commission's rules, 47 C.F.R. § 63.10(a)(3), SBCS is entitled to non-dominant status on each of the following routes: U.S.-Austria, U.S.-Canada, U.S.-Czech Republic, U.S.-France, U.S.-Germany, U.S.-Great Britain, U.S.-Greece, U.S.-Hungary, U.S.-Italy, U.S.-Lithuania, U.S.-Luxembourg U.S.-Netherlands, U.S.-Norway, U.S.-Portugal, U.S.-Singapore, U.S.-Spain, U.S.-Sweden, U.S.-Switzerland, and U.S.-Brazil.

SBCS's affiliated foreign carriers in Belgium (Belgacom and Proximus), Denmark (TDC A/S), and South Africa (Telkom S.A.), have not yet been declared non-dominant.⁶¹ Accordingly, SBCS certifies that it will comply with the Commission's dominant carrier regulations (including the requirements of sections 63.10 and 43.61(c) of the Commission's rules) with respect to its provision of services along each of the following affiliated routes: U.S.-Belgium, U.S.-Denmark, and U.S.-South Africa.

(n) SBCS certifies that it has not agreed to accept special concessions, as defined in section 63.14(b) of the Commission's rules, 47 C.F.R. § 63.14(b), directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future, except as permitted by section 63.14.

(o) SBCS certifies pursuant to sections 1.2001 through 1.2003 of the Commission's rules that no party to this application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

⁶¹ Although Proximus is otherwise entitled to a presumption of non-dominance, as discussed in noted above, SBCS will comply with the Commission's dominant carrier regulations for the U.S.-Belgium route because Belgacom controls Proximus in Belgium.

IV. CONCLUSION

For the foregoing reasons, SBCS respectfully requests the Commission to grant this application at the same time that SBCS is legally permitted to provide interLATA services in California and Nevada under section 271 of the Communications Act, 47 U.S.C. § 271.

Respectfully submitted,

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